



COUNTY OF LOS ANGELES  
**Public Health**

**CYNTHIA A. HARDING, M.P.H.**  
Interim Director

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December 23, 2014

TO: Each Supervisor

FROM: Cynthia A. Harding, M.P.H.  
Interim Director

SUBJECT: **CALIFORNIA DEPARTMENT OF PUBLIC HEALTH REVIEW OF LOS ANGELES COUNTY HEALTH FACILITIES INSPECTION DIVISION (ITEM NO. 29-A, AGENDA OF JUNE 24, 2014)**

In a motion by Supervisor Antonovich on June 24, 2014, the Department of Public Health (DPH) was directed to provide reports on the implementation status of the corrective actions to the recommendations in the Quality Review of Los Angeles County (LAC) Health Facilities Inspection Division (HFID) Long-Term Care Complaint and Entity Reported Incident Investigations. The Quality Review report was issued by the California Department of Public Health (CDPH), Center for Health Care Quality (CHCQ) on June 1, 2014. Reports were previously submitted to your Board on July 8 and July 22, 2014, August 21, 2014, September 26, 2014, and November 10, 2014.

This report provides updates on the State Quality Review; the corrective actions on complaint investigation initiation, including the onsite investigation by the CDPH and the federal Centers for Medicare and Medicaid Services (CMS); the proposed revised workload strategy mandated by CDPH; and other issues raised by a former HFID employee.

**Quality Review Recommendations**

Recommendations one through five in the Quality Review report have been completed. Recommendation six is on track for completion by December 31, 2014. A tool was developed for use in the audit review process (see Attachment A). It is being piloted in select offices and will be finalized by December 31, 2014, when it will be implemented in all district offices. Attachment B provides details on the status of all recommendations.

### **Corrective Actions on Complaint Investigation Initiation**

The November report informed your Board about a Daily News article that cited the problem of entering accurately the dates that complaints were received by HFID into the State's Automated Complaints Tracking System (ACTS). This issue, which the article characterized as intentional "data falsification," related to the prioritization of complaints and initiating investigations, an issue that was also identified in both the Auditor-Controller's review of the HFID program and the State's Quality Review of Los Angeles County program. Incorrect entry of the receipt date of a complaint is a serious error, as the date the complaint is received is critical to monitoring the program's response time. DPH does not sanction document falsification and is not aware of any intentional falsification of dates in ACTS by DPH staff. HFID management responded swiftly to discrepancies identified in data entry through assessing staff practices, identifying training needs for staff responsible for data entry, and implementing staff training. Trainings on the prioritization of complaints and how to enter them into ACTS were provided to supervisors, nurses, and support staff on June 25, 2014, July 1, 2014, and most recently on October 7, 2014. The October 7 training focused specifically on the data entry issue. HFID implemented a system to monitor the accuracy of data entry going forward. Program managers now conduct weekly audits. Last month's audits revealed that staff are complying with the October 7, 2014 training. In addition, HFID management is working with two DPH managers who have expertise in audit processes to review procedures and verify that required compliance controls are in practice.

The CDPH and the federal CMS staff investigated the "data falsification" allegations during an onsite visit on November 12-14, 2014. They concurred with DPH's determination that there was no falsification of documents and that additional training was needed regarding the data entry for complaints. CDPH and CMS were pleased with the promptness in which training was provided to HFID staff. There have been no formal findings provided to DPH to date.

### **Revised Strategic Workload Plan**

Since September 2014, HFID has been following an annual workload plan to optimize productive use of existing staff while assuring that HFID staff meet quality standards for their investigations. This strategy, which prioritized the completion of both surveys and immediate jeopardy complaints, was based on the findings of the Auditor-Controller's review of the HFID program and the State's Quality Review of Los Angeles County HFID program. Recently, in two separate meetings, one with CMS and another with CDPH, a verbal directive was made that the County needs to ensure completion of mandated surveys. It is our understanding, working with County Counsel, that the County is contractually obligated to complete surveys within the required timeframe. As a result, HFID has developed a revised workload strategy that prioritizes surveys while minimizing the impact on service quality to the vulnerable population. Despite the re-prioritization, and given the existing staffing shortages and budget constraints previously described to your Board, HFID will not be able to complete all surveys within the required timeframe, and will not be able to address the current backlogged citations and complaints. In addition, HFID anticipates there will be complaints/entity reported incidents (ERIs), both immediate jeopardy and non-immediate jeopardy, that will not be completed, or in some cases not even initiated, thus further increasing the current backlog of complaints/ERIs. There will be other impacts in the workload, including to the other HFID programs whose staff will be redirected to complete skilled nursing facility surveys within the required timeframes, and with the write-up and issuance of citations. This revised strategy and resulting impacts is outlined in a letter that was sent to CDPH on December 22, 2014 (see Attachment C).

### **Issues Raised by Former HFID Employee**

Since the November report, HFID management received a resignation letter from an employee that included several allegations about the HFID program. Nine of the ten allegations in the letter concerned matters addressed as part of the recommendations to the Auditor-Controller's audit of HFID. The employee's tenth allegation concerned purported improprieties with the exit interview process for complaints. The employee contended that after a formal exit conference was conducted on March 20, 2014, the employee was asked to conduct another formal exit conference on September 24, 2014, to avoid missing the complaint closure timeframe in ACTS. According to State policy, the formal exit conference begins the 60-day timeframe to close the complaint in ACTS. By conducting another formal exit conference in September, as the employee claims, the 60-day timeframe was "re-set" to comply with the policy. In reviewing the chronology of the specified complaint, it was determined that the employee was incorrect in the understanding of the exit conferences. According to State policy (*Licensing and Certification Policy & Procedure Bulletin No. 14-01*), there is an *informal* exit conference and a *formal* exit conference. The informal exit conference is conducted "upon completion of the onsite investigation at the facility when no further investigation is required at the facility ... or the surveyor needs to consult with a supervisor." The formal exit conference is conducted "after all supporting documentation is collected, the investigation is completed and the supervisor has approved." The March 20<sup>th</sup> exit conference that the employee references was the informal exit conference. The September 24<sup>th</sup> exit conference was the formal exit conference as it was conducted after the supervisor had approved the findings and citations.

The next Board report will be provided in January 2015. In the meantime, if you have any questions or need additional information, please let me know.

CAH:dc  
PH:1406:006

### **Attachments**

c: Interim Chief Executive Officer  
County Counsel  
Acting Executive Officer, Board of Supervisors

**COUNTY OF LOS ANGELES ♦ DEPARTMENT OF PUBLIC HEALTH  
HEALTH FACILITIES PROGRAM**

DATE: \_\_\_\_\_

TO: \_\_\_\_\_  
Program Manager

FROM: \_\_\_\_\_  
Supervisor/Designee

**SUBJECT: MONTHLY AUDIT REVIEW AND FOLLOW-UP REFRESHER TRAINING**

HFID Office/Staff: \_\_\_\_\_

Reporting period: \_\_\_\_\_

To verify consistency of Abbreviated Standard Survey - Federal Complaint Process, 100.2.01, a review of documentation revealed that:

The date of the complaint entered into ACTS reflects the date it was received in the office.  
Y / N / NA

The complainant final notification letter was sent within 10 working days of the exit.  
Y / N / NA

To verify consistency with Principles of Investigation and Documentation Policy a review of report revealed that:

Investigation was consistent with Principles of Investigation. Y / N / NA

Documentation was consistent with Principles of Documentation. Y / N / NA

**FINDINGS:**

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**CORRECTIVE ACTIONS:**

- |  |  |
|--|--|
| <input type="checkbox"/> Refresher Training Recommended  | <input type="checkbox"/> Appropriate Material Provided |
| <input type="checkbox"/> Appropriate Webinar Recommended | <input type="checkbox"/> Field Training Recommended    |

The following corrective actions have been taken to address the errors and ensure compliance:

1. 

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2. 

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3. 

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4. 

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5. 

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Supervisor/Designee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Staff Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**CALIFORNIA DEPARTMENT OF PUBLIC HEALTH  
REVIEW OF LOS ANGELES COUNTY HEALTH FACILITIES INSPECTION DIVISION**

**STATUS OF IMPLEMENTATION OF RECOMMENDATIONS**

(As of 12-15-14)

<b>Recommendations from CDPH 6-1-14</b>	<b>Corrective Action Submitted to CDPH 6-12-14</b>	<b>Status</b>
1. CDPH should immediately initiate investigations of the three complaints and ERIs identified as uninvestigated Immediate Jeopardy or Non-Immediate Jeopardy-High allegations. Experienced CDPH surveyors or supervisors should conduct and review these investigations.	HFID contacted CDPH and was informed that a specialty trainer has initiated the investigations. Their goal is to have them completed by June 30, 2014. LAC will cooperate with CDPH by providing all information requested.	<b>Complete</b> Three experienced CDPH surveyors conducted the three complaint investigations. Each complaint was found to be unsubstantiated.
2. HFID should ensure all its offices consistently follow state policies and procedures related to intake, prioritization, and assignment. HFID should provide standardized training to support staff and supervisors on these processes.	By June 30, 2014, and annually thereafter, supervisors will review with applicable district office staff relevant sections of Policy and Procedure 14-01 related to intake, prioritization, and assignment of complaints and ERIs. HFID management will provide training to supervisors and support staff on intake, prioritization, and assignment of complaints and ERIs by July 15, 2014.	<b>Complete for this year.</b> Supervisors reviewed CDPH Licensing and Certification Policy and Procedure No. 14-01, Abbreviated Standard Survey (Federal Complaint Process) in Skilled Nursing/Nursing Facilities, with emphasis on procedures related to intake, prioritization, and assignment of complaints and ERIs with support staff. Acknowledgement Sheets were signed by support staff in each district office verifying that the policy was distributed, reviewed, and discussed with them. This policy and procedure will be reviewed annually with support staff. In addition, on June 25, 2014, the HFID training coordinator provided training to all HFID supervisors, and on July 1, 2014, to all assistant supervisors and support staff. Both of these training sessions covered the prioritization and assignment of all complaint/entity reported incident at intake including complaints and entity reported incidents that constitute an immediate jeopardy situation.

<p>3. HFID should develop and implement a standardized system for all of its offices to enable supervisors and managers to track the initiation and status of open cases.</p>	<p>In addition to utilizing ACTS, HFID has created a tracking log for complaints, which will be implemented by July 1, 2014. Supervisors will be required to update the tracking log on a weekly basis. Managers will be required to provide on-going monitoring of the tracking log.</p>	<p><b>Complete</b> On July 1, 2014, a new complaint tracking log was issued to all supervisors. The newly developed tracking log identifies the complaint facility name, complaint intake number, name of the complainant, resident name, assigned evaluator, date complaint was received, date due, complaint initiation/ start date, exit date, and supervisor review date. The log is completed daily by supervisors to closely monitor the status of all complaints received and to ensure timely investigations. This form of monitoring will ensure that all complaints and ERLs, are initiated and completed timely in accordance with mandated time frames. Program Managers will review these logs on a weekly basis.</p>
<p>4. HFID and CDPH should require retraining for all HFID surveyors and supervisors on applying the Principles of Investigation and Documentation.</p>	<p>Completed. Training was provided by CDPH on May 1, 2014, and was attended by HFID surveyors and supervisors.</p>	<p><b>Complete</b></p>
<p>5. HFID and CDPH should require training for supervisors related to appropriate supervisory review of complaint and ERI investigations.</p>	<p>By July 15, 2014, HFID will provide training to supervisors related to appropriate supervisory review of complaint and ERI investigations.</p>	<p><b>Complete</b> Training was provided on June 25, 2014.</p>
<p>6. HFID should develop a system to monitor staff's training needs, including compliance with mandatory training requirements and the need of refresher training. This should include a post-training quality review process that enables HFID managers and supervisors to identify when competencies have not yet been established and refresher training needed.</p>	<p>By October 1, 2014, HFID will develop a tracking system to monitor training needs and compliance with mandatory training.  By December 31, 2014, HFID will develop and implement an audit review process to identify when competencies have not been met and refresher training is needed.</p>	<p><b>Complete</b> The tracking system to monitor training needs and compliance with mandatory training has been developed.  <b>On-track</b> A tool was developed for use in the audit review process and is being piloted in select offices before finalizing it.</p>



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Fifth District

December 22, 2014

Kathleen Billingsley, RN  
Chief Deputy Director of Policy and Programs  
California Department of Public Health  
Director's Office, MS 0500  
P.O. Box 997377  
Sacramento, CA 95899-7377

Dear Ms. Billingsley:

This letter is to provide you with the revised Workload Plan for Los Angeles County based on the recent verbal instructions received from your staff and Paula Perse from the Centers for Medicare & Medicaid Services (CMS).

**Background**

In February 2014, Los Angeles County Department of Public Health (DPH), Health Facilities Inspection Division (HFID) received a letter from California Department of Public Health (CDPH) requesting a written plan describing the actions it would take to close aging long-term care investigations that were still open. After a phone conversation with you on March 14, 2014, you sent a revised request on March 19, 2014, that recognized our intent to include in the written plan the increased costs associated with resolving the backlog as well as those associated with making the program whole.

On April 4, 2014, I sent you a letter outlining DPH's plan to address the backlogged complaints. This letter included the additional costs and resources required for HFID to address the current complaints, backlogged complaints, and surveys for long-term care facilities.

On April 16, 2014, you sent a letter requesting further clarification of the analysis presented in our April 4, 2014 letter. Our follow-up letter dated May 27, 2014, provided you with a more extensive workload analysis based on CDPH's staffing model. In that letter, we outlined the need for funding for an additional 128 positions and on May 30, 2014, DPH followed-up with a Budget Change Proposal to CDPH Licensing & Certification (L&C) for the additional resources for fiscal



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years 2014-15 and 2015-16. This request was necessitated by HFID's urgent need to hire additional staff in order to meet all contractual obligations and address all complaints, both initiation and closure, within acceptable time frames. As you know, DPH is assigned approximately 33% of the facilities under L&C's jurisdiction, but only receives approximately 15% of state-wide L&C funding. To date, we have not received any response to this request.

### Audits

The April 4, 2014 *Department of Public Health – Nursing Home Investigation Audit* conducted by the Los Angeles County Auditor-Controller at the request of the Board of Supervisors investigated the backlog of open complaints. This audit found there was a need for improved tracking of open investigations in order to close cases within reasonable time frames and manage overall workload. Among the ten recommendations in this audit, the Auditor-Controller specifically recommended that “Department of Public Health management establish benchmarks, budgets, and due dates to ensure that investigations are performed within reasonable time frames to ensure that investigations are closed in a timely manner.”

The June 1, 2014 *Quality Review of Los Angeles County Health Facilities Inspection Division* conducted by CDPH in March, 2014 focused on the impact of the unsanctioned “Complaint Cleanup Project” that HFID implemented in August 2013 to close backlogged cases. The review found that the unsanctioned policy had limited impact, but also found that HFID staff required training on complaint and entity-reported incident (ERI) prioritization and review, that a system should be implemented to track initiation and status of open cases, and that training was needed for supervisors and surveyors on applying the Principles of Investigation and Documentation.

The findings of the August 27, 2014 *Department of Public Health – Nursing Home Investigation Follow-Up Review* conducted by the Los Angeles County Auditor-Controller focused on ensuring that complaints/ERIs are prioritized and handled according to State guidelines. It also recommended that all changes to surveyors' recommendations by supervisors are discussed with the surveyor, which resulted in the implementation of the ‘Supervisor Worksheet for Survey and Complaint/ERI Investigation by Surveyors’ form. This form documents that any changes made by a supervisor have been discussed with the surveyor.

Finally, the California State Auditor's October 2014 audit of the California Department of Public Health specifically included in its recommendations that “By May 1, 2015, establish a specific time frame for completing complaint investigations and ERIs.”

These audits focused primarily on unclosed complaint and ERI investigations and not on incomplete surveys. While completing all surveys is mandated per the contract, HFID is not staffed sufficiently to complete all surveys and close all complaints and ERIs. The recognition of this HFID staffing shortage, especially in relation to the number of facilities that must be surveyed as compared to the remainder of the State, caused DPH to request in May of 2014 an increase in funding to support the additional 128 positions required to complete the work required by the Contract.

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Because no additional staffing was approved by CDPH, HFID prepared a Workload Plan Proposal for July to September 2014, which factored in the availability of resources and the amount of projected work using the State standard average hours. This plan, which was discussed in multiple phone calls with your staff and with CMS in an on-site visit on July 2, 2014, focused on initiation and closure of Immediate Jeopardy (IJ) complaints and ERIs, and projected an estimated completion of 55% (26/47) of recertification surveys. This plan was used through the end of federal fiscal year (FFY) 2013-14 which ended September 30, 2014.

HFID also developed a twelve month plan for FFY 2014-15 with the assistance of L&C staff. Weekly reports have been submitted to L&C, showing the number of missed surveys. As of December 12, 2014, DPH has missed 19 surveys, of which your staff is aware.

### **Revised Workload Plan**

CMS and L&C staff conducted an on-site visit to Los Angeles County HFID from November 12-14, 2014 to investigate allegations of date falsification. During this site visit, CMS staff emphasized that Los Angeles County's only mandate was to conduct surveys within the required time frame and, by implication, should adjust the Workload Plan accordingly. Following this visit, a conference call was held with L&C on November 18, 2014, in which they reiterated that HFID is mandated to complete all recertification surveys within required time frames, and is not mandated to complete complaint and ERI investigations. In response, given our current resource constraints, HFID has again revised its Workload Plan to reduce the number of missed surveys. Below is the Current Workload Plan and the proposed Revised Workload Plan, which now places the primary focus on the mandated activity of completion of Recertification Surveys.

#### **Current Workload Plan (January – September 2015)**

- Recertification Surveys (191 out of 232)
- Initiating and completing all IJ complaints/ERIs
- Initiating all Non IJ complaints/ Non IJ High ERIs
- Completing the write-ups for backlogged citations

#### **Revised Workload Plan (January – September 2015)**

- Recertification Surveys (214 out of 232)
- Initiating but not completing all IJ complaints/ERIs
- Initiating all Non IJ complaints
- Not initiating Non IJ High ERIs
- Not completing write-ups for backlogged citations

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In order to fulfill the Revised Workload Plan, HFID will redirect nurses from other health care facility activities to complete the surveys for skilled nursing facilities (SNF). This redirection will necessarily impact the timely completion of Tier II activities, such as initial licensing. It is also important to note that eleven nurse trainees were eligible to take the Surveyor Minimum Qualifications Test (SMQT) but were not admitted to the November testing as there were no spaces available. Due to the inability of the trainees to conduct surveys until they pass the SMQT as well as three current vacancies in the program, we project not being able to complete all required surveys.

In addition, with this Revised Workload Plan, HFID will not be able to complete write-ups for backlogged citations. We project that by the end of September 2015, there will be approximately 236 IJ complaints/ERIs and 1,170 Non-IJ complaint investigations that will have been initiated but not completed, and 1,032 Non-IJ High ERIs which will not have been initiated. This will increase our current existing backlog of complaints and will result in fewer corrective action plans that ensure facilities are in compliance. This could have a negative impact on the quality of patient care in these facilities and, as mentioned, could impact the timely completion of Tier II activities.

Finally, your staff verbally instructed HFID to discontinue the use of the Supervisor Worksheet for Survey and Complaint/ERI Investigation by Surveyors, unless the deficiencies are at a level G or higher. The form was implemented based on audit recommendations in the Los Angeles County Department of Auditor-Controller's August 2014 report and referenced in the California State Auditor's October 2014 report. Completion of the worksheet is time consuming and adds to the already burdensome workload, yet it addresses the issue of poor documentation related to the changing of a citation level. We will follow your recommendation and use the form for level G or higher deficiencies.

In summary, we will:

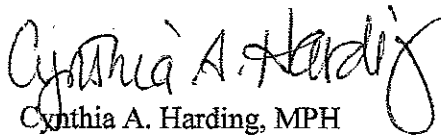
- 1) Prioritize Recertification Surveys;
- 2) Initiate IJ complaints and IJ ERIs;
- 3) Initiate Non-IJ complaints;
- 4) Discontinue initiating Non-IJ High ERIs;
- 5) Discontinue the work on the backlogged citation write-ups.
- 6) Continue the use of the Supervisor Worksheet for Survey and Complaint/ERI Investigation by Surveyors for level G or higher deficiencies.

As always, we are open to discussing these issues and working with your staff on ways to more efficiently address the projected workload. Unless we hear from you in writing by January 6, 2015, we will assume you are in agreement with this proposed revised Workload Plan and will implement it accordingly.

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Our current contract with CDPH ends in June of 2015. Unfortunately, carrying out the required elements of the contract with the current staffing levels is untenable as DPH is unable to implement the recommendations of the Los Angeles County Auditor-Controller regarding closure of complaints and meet our mandate to complete all surveys. Therefore, without an assurance of a significant increase in funding to appropriately support the program, DPH must consider a recommendation to our Board that the County not renew its contract with L&C to perform these services.

Sincerely,



Cynthia A. Harding, MPH  
Interim Director

c: Ron Chapman, M.D., M.P.H.  
Director and Health Officer  
California Department of Public Health

Jeffrey Gunzenhauser, M.D., M.P.H.  
Interim Health Officer  
Los Angeles County Department of Public Health

Nwamaka Oranusi, RN  
Acting Chief of Health Facilities Inspection Division  
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